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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,922	08/10/2001	Richard Alexander	0164-4015	6059

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345 Park Avenue
New York, NY 10154-0053

EXAMINER

WEAVER, SUE A

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 08/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/927,922

Applicant(s)
ALEXANDER

Examiner
Sue A. Weaver

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3727



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 17, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-67 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Jan 17, 2002 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 6) ☐ Other: _____

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1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the zone of weakness comprises a strip of material which is less resistant to tearing than the adjacent material, as claimed in claims 12, 20, 26, 32, 38 and 43, and the methods claimed in claims 56-58, 60-62, and 64-65, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17 and 56-58, 60-62 and 64-66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There isn't any proper antecedent basis in claim 1 for "the vertical zone of weakness" claimed in claim 17. Moreover, it isn't clear how applicant considers the specific methods claimed in claims 56-58, 60-62 and 64-66 to further limit the structure of the zone of weakness claimed in claims 1, 53 and 54.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 10-12, 15, 16, 19, 22, 25, 28 and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by Sachs, cited by applicant. *✓ Marbler*
Do like 1
✓ Wehrhach

Applicant claims a garment cover with tapered shoulder seams and an opening for a hanger which is conventional for garment covers. Applicant's claim for a cover with a zone of weakness so that the cover may be torn away from the garment is also well-known as clearly taught by Sachs. The cover of Sachs is made of paper and therefore considered to be opaque as claimed. The zone of weakness is provided by perforations.

4. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Lim, cited by applicant. *✓ Marbler*

The cover design of Lim is provided with diagonal zones a weakness so that the cover might be torn away as shown in Figures 20 and 21.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made. *5-2*

Claims 4, 6, 7, 31, 34, 45, 48 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sachs in view of Lim or La Rosa, all cited by applicant. *and Marbler*

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To have merely formed the zones of weakness on both the front and back sides of the cover, to ease of removal, would have been obvious in view of either Lim or La Rosa teaching such orientation.

6. Claims 8, 9, 13, 14, 18, 21, 24, 27, 30, 33, 36, 39, 42, 44, 47, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1-7 above, and further in view of Gilchrist, Jr..

To have alternately made the cover with plastic having perforated zones of weakness would have been obvious in view of Gilchrist, Jr., teaching such alternate materials. The plastic material suggested is considered to be inclusive of the well-known polythene and polyethylene used in packaging today. Plastic may be either transparent or translucent and the both choice of material and transparency is considered to be a matter of choice dependent of the intended use.

Revised 7. Claims 37 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sachs in view of Lim.

To have alternately made the cover of Sachs with diagonal zones of weakness in the manner taught by Lim, would have been obvious.

8. Claims ~~17, 23, 29, 35, 41, 46, 51~~ and 52 rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1-7 above, and further in view of DeMatteis et al.

To have provided stops in the zone of weakness to prevent premature tearing would have been obvious in view of the teaching of DeMatteis et al.

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9. Claims 12, 20, 26, 32, 38 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1-7 above, and further in view of Guckenberger.

To have alternately formed the zone of weakness as a score line of a lesser resistance to tearing would have been obvious in view of the teaching by Guckenberger.

10. Claims 53, 54 and 59[✓] are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to the claims in paragraph 6 above, and further in view of DeMatteis et al.

To have formed the cover with zones of weakness on both sides or to have alternately provided the zones as diagonal zones of weakness would have been obvious in view of Lim. To have provided stops on the zones of weakness to prevent premature opening would have been obvious in view of DeMatteis et al..

11. Claim 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 54 above, and further in view of Venturini.

To have directed the diagonal zones in a pattern which extends along the length of the cover would have been obvious in view of the alternate teaching by Venturini in Figure 7.

12. Claims 56, 58, 60, 62, 64 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 55, 59 and 63 above, and further in view of Chester.

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To the extent that a zone of weakness formed by a perforating member is considered to further limit the perforations, to have formed them in the manner taught by Chester would have been obvious to one having ordinary skill in the art.

13 Claims 57, 61 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 55, 59 and 63 above, and further in view of Guckenberger.

To have merely formed the zone of weakness as a laser score in the manner taught by Guckenberger would have been most obvious to one having ordinary skill in the art.

14. Claim 67 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt et al. *V Marbler*

Schmidt et al teach a sealed package with perforations for removing a portion of the package. To have used such for packaging garments such as diapers or disposable briefs would have been most obvious to one having ordinary skill in the art.

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bowen teaches another score line for a line of weakness. Wordingham, Grigsby and Levy et al show additional garment covers. Jonese, Greason and Giberstein show additional clothing packages with lines of weakness. Marbler, Futase and Moteki show packages with tear lines.

16 The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as

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timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:
Assistant Commissioner for Patents
Washington, D.C. 20231

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Typed or printed name of person signing this certificate:

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver on Tuesday-Friday and whose telephone number is (703) 308-1186.

FAX: (703) 305-3579

E-mail: sue.weaver@uspto.gov


Sue A. Weaver
Primary Examiner

SW

August 7, 2002